

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MELVIN CORNELL LEWIS,

Plaintiff,

v.

DECISION AND ORDER

03-CV-943S

M. BLAZEJEWSKI,

Defendant.

1. Plaintiff, acting *pro se*, commenced this action on January 18, 2003, by filing a Complaint in the United States District Court for the Western District of New York. Therein, Plaintiff alleges that Defendant Blazejewski, a teacher at Elmira Correctional Facility, retaliated against him for complaining about her to the Program Committee by filing false misbehavior reports against him. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983.

2. On June 15, 2006, Defendant filed a Motion for Summary Judgment in this case. By Orders entered on June 16, 2005, and July 5, 2006, this case was referred to the Honorable H. Kenneth Schroeder, United States Magistrate Judge, for all pretrial matters and for report and recommendation on Defendant's Motion for Summary Judgment.

3. On January 11, 2007, Judge Schroeder filed a Report, Recommendation and Order recommending that Defendant's Motion for Summary Judgment be granted in part and denied in part.¹

4. After being granted an extension, Defendant filed Objections to Judge Schroeder's Report, Recommendation and Order pursuant to 28 U.S.C. § 636(b)(1)(C) and Local Rule 72.3(a)(3) on February 9, 2007, the deadline set by this Court. That same day,

¹Familiarity with Judge Schroeder's January 11, 2007 Report, Recommendation and Order is presumed.

Plaintiff filed a Motion for Extension of Time to File Objections, which included his substantive objections to Judge Schroeder's Report, Recommendation and Order. Because Plaintiff's objections were filed by the deadline, this Court has considered his objections in rendering its decision.

5. This Court has thoroughly reviewed this case *de novo* and has considered Judge Schroeder's Report, Recommendation and Order, Defendant's and Plaintiff's Objections thereto, and the applicable law. Upon due consideration, this Court will accept Judge Schroeder's recommendation to grant in part and deny in part Defendant's Motion for Summary Judgment. Plaintiff's and Defendant's Objections are therefore denied.

IT HEREBY IS ORDERED, that this Court accepts Judge Schroeder's January 11, 2007 Report, Recommendation and Order (Docket No. 47) in its entirety, including the authorities cited and the reasons given therein.

FURTHER, that Defendant's Objections (Docket No. 51) are DENIED.

FURTHER, that Plaintiff's Motion for an Extension of Time to File Objections (Docket No. 52) is GRANTED, but the Objections raised therein are DENIED.

FURTHER, that Defendant's Motion for Summary Judgment (Docket No. 37) is GRANTED in part and DENIED in part.

SO ORDERED.

Dated: February 16, 2007
Buffalo, New York

/s/William M. Skretny
WILLIAM M. SKRETNY
United States District Judge